

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 603

Introduced by Senator Padilla

(Principal coauthor: Assembly Member Beall)

(Coauthors: Senators DeSaulnier, Oropeza, and Romero)

February 27, 2009

An act to amend Section 22973 of, and to add Section 22973.3 to, the Business and Professions Code, relating to retail tobacco sales.

LEGISLATIVE COUNSEL'S DIGEST

SB 603, as amended, Padilla. Retail tobacco sales: licenses.

The California Cigarette and Tobacco Products Licensing Act of 2003 requires a retailer to obtain a license from the State Board of Equalization to engage in the sale of cigarette and tobacco products in this state, and requires retailer licensees to pay a one-time license fee of \$100, no renewal fee, and a reinstatement fee of \$100 if the license is renewed after lapse, and authorizes the board to suspend or revoke the license of any retailer of tobacco products that is in violation of the act.

Existing law requires all moneys collected pursuant to the act to be deposited in the Cigarette and Tobacco Products Compliance Fund, which is available for appropriation by the Legislature solely for the purpose of implementing, enforcing, and administering the California Cigarette and Tobacco Products Licensing Act of 2003.

This bill would limit the number of *new* retail licenses available, as specified. The bill would set the renewal fee at \$100.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 22973 of the Business and Professions Code is amended to read:

22973. (a) An application for a license shall be filed on or before April 15, 2004, on a form prescribed by the board and shall include the following:

(1) The name, address, and telephone number of the applicant.

(2) The business name, address, and telephone number of each retail location. For applicants who control more than one retail location, an address for receipt of correspondence or notices from the board, such as a headquarters or corporate office of the retailer, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes or tobacco products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

(4) If any other licenses or permits have been issued by the board or the Department of Alcoholic Beverage Control to the applicant, the license or permit number of those licenses or permits then in effect.

(5) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(6) The signature of the applicant.

(7) Any other information the board may require.

(b) The board may investigate to determine the truthfulness and completeness of the information provided in the application. The

board may issue a license without further investigation to an applicant for a retail location if the applicant holds a valid license from the Department of Alcoholic Beverage Control for that same location.

(c) The board shall provide electronic means for applicants to download and submit applications.

(d) (1) An initial license fee of one hundred dollars (\$100) shall be submitted with each application. An applicant that owns or controls more than one retail location shall obtain a separate license for each retail location.

(2) The initial license fee required by this subdivision does not apply to an application for renewal of a license for a retail location for which the fee has already been paid. For renewal licenses, the fee shall be one hundred dollars (\$100). If a license is reinstated after its expiration, the retailer, as a condition precedent to its reinstatement, shall pay a reinstatement fee of one hundred dollars (\$100).

SEC. 2. Section 22973.3 is added to the Business and Professions Code, to read:

22973.3. (a) The number of licenses issued shall be limited to one for each 2,500 persons, or fraction thereof, over 18 years of age in the county in which the retail facilities are situated. No additional license, other than a renewal or transfer, as provided by subdivision (e), new license shall be issued for a county in which the number of current licenses is more than one for every 2,500 persons, or fraction thereof, 18 years of age or older. Applications shall be granted, if they meet the requirements of this chapter, in the order in which they are received. *The subdivision shall not preclude the renewal of any existing license or the transfer of any existing license.*

(b) In an area where the number of current licenses exceeds the amount allowed by subdivision (a), an existing license may be transferred only under one of the following conditions:

(1) ~~For the continued use at the same location upon the sale or transfer of the business holding the license.~~

(2) ~~For use at another location by the holder of the current license, upon certification by the department that the new location is not in an area of overconcentration.~~

transferred only for the continued use at the same location upon the sale or transfer of the business holding the license.

1 (c) (1) Notwithstanding subdivision (a), the State Board of
2 Equalization may issue a new license if the local governing body
3 of the area in which the applicant's premises are located, or its
4 designated subordinate officer or body, determines within 90 days
5 of notification of a completed application that public convenience
6 or necessity would be served by the issuance. The 90-day period
7 shall commence upon receipt by the local governing body of either
8 of the following:

9 (A) Notification by the State Board of Equalization of an
10 application for licensure

11 (B) A completed application according to local requirements,
12 if any, whichever is later.

13 (2) If the local governing body, or its designated subordinate
14 officer or body, does not make a determination within the 90-day
15 period, then the State Board of Equalization may issue a license
16 if the applicant shows the State Board of Equalization that public
17 convenience or necessity would be served by the issuance. In
18 making its determination, the State Board of Equalization shall
19 not attribute any weight to the failure of the local governing body,
20 or its designated subordinate officer or body, to make a
21 determination regarding public convenience or necessity within
22 the 90-day period.